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indorsed". *Forrest v. Safety Banking etc., Co.* (C. C. 1909) 174 Fed. 345 (under the N. I. L.); see *Kushner v. Abbott* (1912) 156 Iowa 598, 137 N. W. 913; but see *Patterson v. Poindexter* (Pa. 1843) 6 Watt & S. 227; *Matter of Fearing* (1910) 138 App. Div. 881, 123 N. Y. Supp. 396. It is interesting to note that the law of other countries makes a bill and note negotiable without words of negotiability unless there is a stipulation to the contrary. Bills of Exchange Act, 1882 (England) § 8 (4), [adopting the commercial law of Scotland, see Chalmers, Bills of Exchange (8th ed.) 28]; The Hague Uniform Law Relating to Bills of Exchange & Promissory Notes, Arts. 10, 79; German Exchange Act, Arts. 9, 98.

REPLEVIN—PROPERTY IN A THIRD PERSON AS A DEFENSE.—The defendant wrongfully seized liquor from the possession of the plaintiff. In an action of replevin, *held*, it was a good defense to show that the general ownership was in a third person. *Jackson v. City of Columbia* (Mo. 1920) 217 S. W. 869.

The common law saw fit to protect possession, and hence evolved the doctrine that possession is title against a wrongdoer. Holmes, The Common Law, Lecture VI; see *Bills v. Baker* (1917) 178 App. Div. 480, 482, 165 N. Y. Supp. 171. Prior possession, therefore, is generally conceded to be sufficient to support trespass, ejectment, detinue, trover, or case against a trespasser. And it is no defense to any of these actions that the property in the goods is in a third person. *Little v. Fossett* (1852) 34 Me. 545 (trespass); *Randolph v. Hinck* (1919) 288 Ill. 99, 123 N. E. 273 (ejectment); *Justice v. Moore* (1911) 69 W. Va. 51, 71 S. E. 204 (detinue); *Harrington v. Tremblay* (1881) 61 N. H. 413 (trover); *Godfrey v. Pullman Co.* (1910) 87 S. C. 361, 69 S. E. 666 (case). Replevin, however, originally lay only for an unlawful distress. Cobbey, Replevin (2nd ed.) 1. And property in a third person was a good defence. Gilbert, Distress and Replevin (2nd ed.) 127. The authorities seem to give no reason why a different rule should have prevailed in replevin than in the other possessory actions; perhaps the difference is traceable to the restricted scope of the action. Replevin was early expanded in England to cover any unlawful taking, Com. Dig. Replevin (A), and later in the United States to cover an unlawful detention. *Stoughton v. Rappalo* (1818) 3 S. & R. 559. Many jurisdictions, in an effort to bring the action into harmony with trespass and trover, now hold that prior possession is sufficient to support replevin against a trespasser. *Sanford v. Milklin* (1906) 144 Mich. 311, 107 N. W. 884; *Cummins v. Holmes* (1884) 109 Ill. 15. This seems to be the law in New York, for section 1723, N. Y. Code of Civ. Proc., which provides that the defendant may by answer set up title in a third person, has never been applied to replevin in the *cepit*, and probably never will be. Property in a third person is a good defense, however, to an action of replevin, in the *detinet*. *Griffin v. Long Island Ry.* (1886) 101 N. Y. 348, 4 N. E. 740. There seems to be no justification for the doctrine of the instant case, and it has been generally repudiated in the United States, but seems to be law in England. *Presgrove v. Saunders* (1703) 1 Salk. 5; see *Butcher v. Porter* (1692) 1 Salk. 94.

RES JUDICATA—EQUITY DECREE—EFFECT AT LAW.—In a bill in equity to restrain the defendant's trespasses, the court found that the plaintiff owned certain land in the possession of the defendant, and issued the decree prayed for. The court refused, however, to oust the defendant,